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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SALLIE KIM, MAGISTRATE JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	No. CR 20-MJ-70968 SK
)	
CHEN SONG,)	
)	
Defendant.)	San Francisco, California
_____)	

Tuesday, July 21, 2020

TRANSCRIPT OF PROCEEDINGS

APPEARANCES: (Via Zoom Webinar)

For Plaintiff: DAVID L. ANDERSON
UNITED STATES ATTORNEY
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BY: BENJAMIN KINGSLEY
ASSISTANT UNITED STATES ATTORNEY

For Defendant: STEVEN KALAR
Federal Public Defender
55 South Market Street
Suite 820
San Jose, California 95113
BY: TAMARA A. CREPET
DEPUTY FEDERAL PUBLIC DEFENDER

Also Present: **MICHAEL ZHU**, Interpreter
JOSH LIBBY, Pretrial Services
SULAN WANG
KEFENG LIU

Reported By: **BELLE BALL, CSR 8785, CRR, RDR**
Official Reporter, U.S. District Court

Tuesday - July 21, 2020

10:33 a.m.

P R O C E E D I N G S

THE CLERK: Calling Criminal Matter 20-MJ-70968, United States versus Chen Song. Counsel, please state your appearances for the record.

MR. KINGSLEY: Good morning, Your Honor. Benjamin Kingsley for the United States.

THE COURT: Good morning.

MS. CREPET: Tamara Crepet on behalf of Chen Song, who is present on the Zoom, and currently in custody.

THE COURT: Good morning. And I understand that Ms. Song is being assisted by a Mandarin-language interpreter who has already been sworn, Michael Zhu.

Ms. Crepet, because of the COVID-19 crisis we are all appearing by video. Does Ms. Song waive her personal appearance?

MS. CREPET: She does, Your Honor.

THE COURT: Okay. And did you get a chance to submit the financial affidavit?

MS. CREPET: Unfortunately, Your Honor, we had limited time with the interpreter in the jail.

THE COURT: Okay.

MS. CREPET: But we do anticipate doing that. Hopefully, if things go as anticipated today, we'll have the leisure of filling that out with an abundance of time.

1 **THE COURT:** Okay. So, we're on for a bond hearing.
2 And let me tell you, Mr. Kingsley, I did receive your
3 memorandum.

4 Ms. Crepet, did you also receive the memorandum?

5 **MS. CREPET:** I did, Your Honor. And I thank the
6 government for giving me advance warning that it was
7 forthcoming.

8 **THE COURT:** Okay. Mr. Kingsley, it has not changed
9 my mind. I do believe you have made your record over your
10 objection to release, but at this time, I am going to release
11 Ms. Song, on bond terms.

12 And I'm going to have Melinda put the bond form up on
13 screen so that we can look at it together. Because we're going
14 to have to check some other boxes.

15 And I will also let Ms. Wang, as the surety and custodian,
16 understand what the terms are going to be.

17 Ms. Wang, can you state your name, please?

18 **MS. WANG:** (Herself) Sulan Wang.

19 (All further responses of Ms. Wang are given through the
20 Interpreter)

21 **MS. WANG:** Sulan Wang. First name is S-U-L-A-N, last
22 name, W-A-N-G.

23 **THE COURT:** Thank you. Ms. Wang, if the defendant
24 violates any of these rules that I'm going to read, the
25 government could come after you for \$100,000 and take -- and

1 foreclose on the property that you are going to post, which
2 is -- I understand to be your house.

3 This is a voluntary position. Nobody can force you to do
4 this. In fact, if you sign today as a surety, but change your
5 mind later, you can do that. But you have to make an
6 appointment, come to court, and either I or one of my fellow
7 Magistrate Judges will sign a piece of paper that will release
8 you from being a surety. But it's only official (sic) until
9 you get that piece of paper.

10 In addition, these rules might change from time to time,
11 but I won't bring you back into court to tell you about them.
12 But, if the defendant violates any of those new rules, you
13 could still be at the loss of \$100,000. So I advise you to
14 stay in touch with Ms. Crepet, so she can tell you if there are
15 new rules or changes to the rules.

16 In addition, you agreed to be a custodian. And that means
17 that you must promise that if you learn the defendant,
18 Ms. Song, has violated any of these rules, you must immediately
19 notify Pretrial Services. And you'll see Mr. Libby by on the
20 screen. He is with Pretrial Services.

21 He will give you information about how to get in contact
22 with Pretrial Services.

23 Do you make that promise?

24 **MS. WANG:** (Gives thumbs-up sign)

25 **THE COURT:** And, you have to say out loud.

1 **MS. WANG:** Yes. I do make that promise.

2 **THE COURT:** And if you break that promise, you could
3 be sent to jail.

4 So Melinda -- Melinda got kicked out. Thank you. Melinda
5 got kicked out. So let me just tell you, I'm going to start
6 reading the terms of the bond.

7 **THE CLERK:** No, I'm here.

8 **THE COURT:** You're here? Okay, can you put
9 share-screen for the terms of the bond?

10 (Document displayed)

11 **THE COURT:** Mr. Libby has not had a chance to see
12 them either, so I wanted to make sure we had them.

13 Ms. Song, if you violate any of the terms of the bond, you
14 will be arrested. And the government can also come after you
15 for \$100,000.

16 Also, if you violate any of the terms of the bond, these
17 rules, it's a separate crime. You could be -- you will be
18 arrested. You could be sent to prison for contempt of court,
19 or bail-jumping for up to ten years.

20 So I'm going to read the terms of the bond. Then I'm
21 going to ask Ms. Song if you understand the rules, if you agree
22 to abide by them, and if you give me permission to sign this
23 form on your behalf.

24 Then, Ms. Wang, I'm going to ask you for permission to
25 sign on your behalf. Then we'll have to make arrangements for

1 you to post the property as the bond.

2 Okay. The defendant is subject to each condition. The
3 amount of the bond is \$100,000 secured by a property located at
4 8501 Central Drive, Newark California, 94560.

5 The defendant must appear at all proceedings as ordered by
6 the Court, and must surrender for service of any sentence
7 imposed.

8 The defendant must not commit any federal, state or local
9 crime.

10 The defendant must not harass, threaten, injure,
11 intimidate, tamper with or retaliate against any witness,
12 victim, informant, juror, or officer of the Court, or obstruct
13 any criminal investigation.

14 The defendant must submit to supervision by Pretrial
15 Services, and must report immediately upon release and
16 thereafter as directed by Pretrial Services.

17 The defendant must surrender all passports and other
18 travel documents to Pretrial Services by July 22nd, 2020, and
19 must not apply for other passports or travel documents.

20 Mr. Libby, do you think that any of the additional
21 conditions should be added below that, until we get to the
22 custody issue?

23 **MR. LIBBY:** Your Honor, I would only ask that she not
24 change residence without prior permission.

25 **THE COURT:** Okay. Okay. The defendant must not

1 change residence or telephone number without prior approval of
2 Pretrial Services.

3 The defendant must remain in the custody of custodian
4 Sulan Wang at 8501 Central Drive, Newark, California, 94560.

5 The custodian must supervise defendant and report any
6 violation of a release condition to Pretrial Services. A
7 custodian who fails to do so may be prosecuted for contempt.

8 The defendant must also comply with the following location
9 restrictions:

10 The defendant must not travel outside the Northern
11 District of California.

12 The defendant must observe a curfew and remain at her
13 residence every day from 8:00 p.m. to 6:00 a.m., except as
14 directed by Pretrial Services.

15 **MR. KINGSLEY:** Your Honor, I thought the proposal was
16 for 24-hour --

17 **THE COURT:** You're right, It was. Sorry.

18 Melinda, uncheck that. That was a mistake.

19 The defendant must observe a curfew and remain at her
20 residence -- the defendant must remain at her residence at all
21 times except for medical, substance abuse or mental-health
22 treatment, attorney visits, court appearances, court-approved
23 obligations, or other activities approved in advance by
24 Pretrial Services.

25 The defendant must submit to location monitoring by RF.

1 Okay. Mr. Libby, is there anything else you wanted to
2 add?

3 **MR. LIBBY:** At this point there isn't, Your Honor.
4 The only thing that I would say is that we will reach out to
5 the defendant to arrange a time to meet with her at her
6 residence.

7 **THE COURT:** Okay. Ms. Song --

8 **MR. KINGSLEY:** Your Honor?

9 **THE COURT:** Yes.

10 **MR. KINGSLEY:** May I propose a condition? I've never
11 done this before, but I would like to suggest that -- I mean,
12 the defendant has a consular right to consult with her
13 government. But, I would propose that she not be allowed to
14 do so outside of the presence of counsel. Because I think
15 that that will put some ability -- that will allow us, through
16 her counsel, to make sure that nothing -- nothing's happening
17 that shouldn't be.

18 **THE COURT:** Ms. Crepet, do you have an objection to
19 that condition?

20 **MS. CREPET:** Your Honor, at the moment I understand
21 the government's concern, and think that is appropriate. If
22 the defense does research or has a concern about that
23 condition, we can come back to court.

24 **THE COURT:** Okay. So the following conditions also
25 apply to the defendant. The defendant may consult with

1 consular officials of the PRC, only in the presence of
2 counsel.

3 Why don't you say "embassy or consular officials,"
4 Melinda.

5 **MR. KINGSLEY:** Or just "officials."

6 **THE COURT:** Okay. Let's just say "officials of the
7 PRC." That's a good point.

8 **MR. KINGSLEY:** And if that becomes a problem,
9 obviously Ms. Crepet can come back to us and --

10 **THE COURT:** Right. Only in the presence of counsel.
11 Okay. Let me just say it again.

12 The defendant may consult with officials of the PRC only
13 in the presence of counsel.

14 Ms. Song, do you understand these rules?

15 (All responses of the defendant are given through the
16 Interpreter)

17 **THE DEFENDANT:** I do.

18 **THE COURT:** Okay. And do you promise to abide by
19 them?

20 **THE DEFENDANT:** That's fine.

21 **THE COURT:** And Ms. Wang, may I sign on your behalf?
22 And Ms. Song, may I sign on your behalf?

23 I'm sorry I asked at the same time. Let me repeat that.

24 Ms. Song, may I sign on your behalf?

25 **THE DEFENDANT:** I do.

1 **THE COURT:** Okay. Ms. Wang, may I sign on your
2 behalf?

3 **MS. WANG:** I agree, I agree.

4 **THE COURT:** Okay. So because it has been taking a
5 few days to post the bond, I will release Ms. Song now. But I
6 want to make sure that the bond is posted within a week.

7 So Ms. Crepet, can you assist Ms. Wang and Ms. Song in
8 explaining to them how do that?

9 **MS. CREPET:** I will, Your Honor. It is a bit of an
10 involved process, and we will make sure we get on it starting
11 today.

12 **THE COURT:** Thank you. Is there anything else we
13 need to talk about today?

14 Mr. Kingsley?

15 **MR. KINGSLEY:** Yeah, thank Your Honor. Is the
16 location monitoring going to be in place immediately?

17 **THE COURT:** Yes.

18 Ms. Wang -- Ms. Song, the minute you get released, you
19 must get in touch with Pretrial Services so they will put the
20 location monitoring on. It's commonly known as an ankle
21 bracelet, that you will be wearing all the time.

22 **MR. LIBBY:** Your Honor, one thing that I will note,
23 she will probably be released later today. So the hookup will
24 happen probably tomorrow.

25 **THE COURT:** Realistically, it will be tomorrow.

1 **MR. KINGSLEY:** Is there any way we can try to make
2 that not happen? I just am concerned about giving --

3 **THE COURT:** As a practical matter, Mr. Kingsley, I
4 just don't know what's going to happen.

5 **MS. CREPET:** I will reinforce to Ms. Wang and to
6 Ms. Song the importance of the conditions that the Court has
7 set, and the fact that there could be additional criminal
8 liability if there's any action taken that is in contravention
9 of the conditions.

10 I've already had that conversation with Ms. Wang and
11 Ms. Song, and I will reinforce it.

12 **THE COURT:** Mr. Libby, can you give Ms. Wang your
13 telephone number now, so that she will know she has to call
14 you if Ms. Song violates any of these rules?

15 **MR. LIBBY:** Absolutely. The number that she should
16 call, Your Honor, is going to be our main line in
17 San Francisco. It's (415) 436-7501.

18 **THE COURT:** That's -- let them get a piece of paper,
19 sorry. (415) --

20 **MS. WANG:** Okay.

21 **MR. LIBBY:** 436-7501.

22 **MS. WANG:** I have it down.

23 **THE COURT:** Okay. So if the defendant violates any
24 of these rules, you must call Pretrial Services.

25 **MS. WANG:** Oh, may I say something?

1 **THE INTERPRETER:** Ms. Wang wants to say something.

2 **THE COURT:** Yes.

3 **MS. WANG:** I took a look at the document. My name
4 and my address are wrong.

5 **THE COURT:** Okay. Great. Tell me how they are
6 wrong. We will fix it.

7 Melinda, could you put it back up again?

8 **MR. LIU:** May I speak on Ms. Wang's behalf about
9 correction?

10 **THE COURT:** Yes.

11 **MR. LIU:** Okay, the last name was misspelled. This
12 document is correct, but on the custodian, yeah, the address
13 is Central Avenue, rather than Central Drive.

14 **THE COURT:** Thank you. Okay. Is the name spelled
15 correctly?

16 **MR. LIU:** This part is correct. But the previous
17 page is wrong. It's W-A-N-G, not W-O-N-G.

18 **THE COURT:** It is W-A-N-G.

19 **MR. LIU:** Correct.

20 **THE COURT:** Okay. Thank you. I appreciate that very
21 much.

22 **THE CLERK:** Can you repeat the address?

23 **MR. LIU:** 8501 Central Avenue, Newark, California.
24 94560.

25 **THE CLERK:** 8501?

1 **THE COURT:** It's Avenue instead of Drive, Melinda,
2 that's why.

3 **THE CLERK:** Okay, I see. Okay.

4 **MS. CREPET:** And I apologize. As I am the person who
5 provided that address, the error is mine.

6 **THE COURT:** I appreciate the correction and the
7 accuracy. That's very important.

8 Okay, Mr. Kingsley, is there anything else we should
9 discuss?

10 **MR. KINGSLEY:** Yeah. The only thing I would clarify
11 is if we could set a time, order a time certain for her to
12 appear to get the ankle bracelet, just so --

13 **THE COURT:** Okay. At the latest, Ms. Song must go to
14 Pretrial Services the day after her release. She'll be
15 released today. She must go the next day.

16 **MS. CREPET:** And I can explain to Ms. Wang and
17 Ms. Song where they should go.

18 **THE COURT:** Okay.
19 Ms. Song, do you understand that rule?

20 **THE DEFENDANT:** I understand.

21 **THE COURT:** Okay. Anything else, Mr. Kingsley?

22 **MR. KINGSLEY:** Nothing else, Your Honor.

23 **THE COURT:** Okay. Ms. Crepet?

24 **MS. CREPET:** Nothing from the defense, Your Honor.

25 **THE COURT:** Do we need to set any dates?

1 **MR. KINGSLEY:** Probably.

2 **MS. CREPET:** Yes, I think that's probably a good
3 idea. We should -- um, we have not addressed the matter of
4 whether we will have a preliminary hearing. Perhaps we could
5 set a date three weeks from now, and in the interim --

6 **THE COURT:** Let's do that.

7 **MS. CREPET:** -- we will discuss.

8 **THE COURT:** Okay.

9 **MR. KINGSLEY:** Three weeks from yesterday?

10 **THE COURT:** What is three weeks from yesterday,
11 Melinda?

12 **THE CLERK:** August 10th.

13 **THE COURT:** August 10th at 10:30 a.m. And that will
14 be Judge Hixson.

15 **MR. KINGSLEY:** Okay. Thank you, Your Honor.

16 (Reporter interruption)

17 **THE COURT:** Yes.

18 Sir, could you state your name?

19 **MR. LIU:** Kefeng Liu.

20 **THE COURT:** How do you spell that?

21 **MR. LIU:** K-E-F-E-N-G L-I-U.

22 **THE COURT:** Thank you.

23 **MR. LIU:** Welcome.

24 **THE COURT:** Is there anything else we need to talk
25 about?

1 **MS. CREPET:** Nothing from the defense, Your Honor.

2 **MR. KINGSLEY:** No, thank you, Your Honor.

3 **THE COURT:** Okay. Great. Then we will move to the
4 next matter.

5 (Proceedings concluded)

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CERTIFICATE OF TRANSCRIBER

I, BELLE BALL, CSR 8785, CRR, RDR, hereby certify that the foregoing is a correct transcript, transcribed to the best of my ability from the official electronic sound recording of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.

A handwritten signature in black ink that reads "Belle Ball". The signature is written in a cursive, flowing style.

/s/ Belle Ball

Belle Ball, CSR 8785, CRR, RDR

Wednesday, July 22, 2020